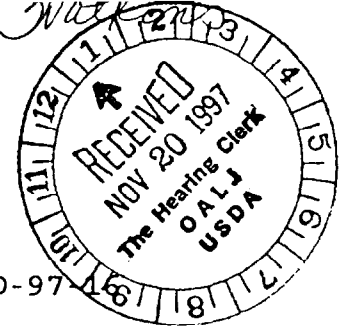


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P. & S. Docket No. D-97-46
)
Joe Varner, Bagley Livestock)
Exchange, Inc. and Rich)
Prairie Livestock Exchange,)
Inc.,)
)
Respondents) Decision

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) by a complaint filed by the Acting Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the respondents wilfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondents admit the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Joe Varner, hereinafter referred to as respondent Varner, is an individual whose business mailing address is P. O. Box 121, Pierz, Minnesota 56364.

2. Respondent Varner is, and at all material times herein was:

- (a) President of respondent Bagley Livestock;
- (b) Owner of fifty percent of the stock issued by respondent Bagley Livestock;
- (c) Vice President and treasurer of respondent Rich Prairie Livestock;
- (d) Owner of fifty percent of the stock issued by Rich Prairie Livestock; and
- (e) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock on his own account in an individual capacity. This registration is currently inactive.

3. Respondent Varner is:

- (a) Responsible for the direction, management and control of respondents Rich Prairie Livestock and Bagley Livestock; and
- (b) Engaged in the business of buying livestock in commerce on a commission basis and buying and selling livestock for his own account.

4. Bagley Livestock Exchange, Inc., hereinafter referred to as respondent Bagley Livestock, is a corporation organized and existing under the laws of the State of Minnesota. Its business mailing address is P. O. Box 428, Bagley, Minnesota 56621.

5. Respondent Bagley Livestock is and at all times material herein was:

(a) Engaged in the business of selling livestock in commerce on a commission basis;

(b) Engaged in the business of buying and selling livestock for its own account; and

(c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock on its own account and as a market agency.

6. Rich Prairie Livestock Exchange, Inc., hereinafter referred to as respondent Rich Prairie Livestock, is a corporation organized and existing under the laws of the State of Minnesota. Its business mailing address is P. O. Box 445, Pierz, Minnesota 56364.

7. Respondent Rich Prairie Livestock is and at all times material herein was:

(a) Engaged in the business of buying and selling livestock in commerce on a commission basis;

(b) Engaged in the business of buying and selling livestock for its own account; and

(c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock on its own account and as a market agency.

Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

Respondents Bagley Livestock, Rich Prairie Livestock and its alter ego, respondent Joe Varner, in his individual and his corporate capacity, their officers, directors, agents, employees, successors and assigns, directly or through any corporate or other device, in connection with their operations subject to the Act shall cease and desist from:

1. Failing to pay, when due, the full purchase price of livestock;
2. Engaging in any plan, practice or device to obtain livestock without paying the full purchase price for the purpose of asserting or claiming an offset to a debt owed by the seller or an agent of the seller.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondents Bagley Livestock, Rich Prairie Livestock and Joe Varner, in his individual and corporate capacity, are jointly and severally assessed a civil penalty of three thousand five hundred dollars (\$3,500.00).

The provisions of this order shall become effective on the sixth day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.

BAGLEY LIVESTOCK EXCHANGE, INC.

By Joe Varn

President
Title

RICH PRAIRIE LIVESTOCK EXCHANGE, INC.

By Joe Varn

Vice President
Title

Joe Varn

JOE VARNER
Respondent

James L. Wiant

JAMES L. WIAINT
Attorney for Respondents

Jane McCavitt

JANE MCCAIVITT
Attorney for Complainant

Issued this 20th day of November, 1997

Doreen G. Baker

Administrative Law Judge